

**SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423**

ENVIRONMENTAL ASSESSMENT

AB-856 (Sub-No. 1X)

J.K. Line, Inc.-Abandonment Exemption-In Starke and Pulaski Counties, IN

AB 847 (Sub-No. 1X)

Toledo, Peoria & Western Railway-Discontinuance Exemption-In Starke and Pulaski Counties

BACKGROUND

In this proceeding, the J.K. Line, Inc.(J.K.) and Toledo, Peoria & Western Railway (TP&W) have filed a petition under 49 U.S.C. 10502 seeking exemption from the requirements of 49 U.S.C. 10903 to abandon and discontinue service over J.K.'s entire 17-mile rail line between milepost 199, near North Judson, IN, and milepost 183, near Monterey, IN, the end of the line, in Stark and Pulaski Counties, IN. J.K and TP&W are jointly referred to as "Applicants".The line traverses Zip Codes 46511 and 46960. A map depicting the rail line in relationship to the area served is appended to the report. If the exemption becomes effective, the railroad will be able to abandon service on the line.

ENVIRONMENTAL REVIEW

Agency Consultation

The Applicants have submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment. The railroad has served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Board's environmental rules at 49 CFR 1105.7(b). We have investigated the record in this proceeding. Also, we have contacted appropriate agencies and individuals to verify the railroad's report and to obtain additional information and comments regarding the potential environmental effects of the proposed abandonment. Contacts have included Department of Natural Resources, State Historic Preservation Officer, National Park Service, U.S. Environmental Protection Agency, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, U.S. Department of Agriculture, Coastal Zone Management, Department of Transportation, and National Geodetic Survey.

Analysis

Applicants state that there is no longer a demand for rail service because the only shipper, Cargill, has stopped using the line and closed its facilities on April 1, 2002. Applicants transported soybeans and corn from the elevator in Monterey for Cargill. No overhead traffic moves on the line. The proposed abandonment would have no adverse effect on regional or local transportation systems and patterns. It is unlikely that the proposed action would be inconsistent with existing land use plans. The land adjoining the line is mainly rural in character. There should be no adverse impacts to fish and wildlife resources, including threatened and endangered species as a result of the proposed

abandonment. Water resources are not anticipated to be adversely affected. The line does not pass through a designated coastal zone. Applicants indicate that the right-of-way is suitable for alternative public use.

If abandonment authority is granted, Applicants intend to salvage the rail, crossties, and other track material. The U.S. Environmental Protection Agency (EPA), Region 5, has expressed concerns about the removal and salvage methods to be used by the Applicants during the proposed abandonment, the final disposition of crossties preserved with creosote, procedures for storing and fueling of construction equipment, procedures for the prevention and/or control of spills from construction equipment, and soil erosion and stormwater runoff mitigation practices to be utilized during abandonment activities. Accordingly, we recommend a consultation condition requiring that the Applicants contact EPA, Region 5, prior to commencement of any salvage activities on this project.

The Indiana Department of Environmental Management (IDEM) has reviewed the proposed project with respect to applicable environmental rules, laws and standards. However, IDEM provided general recommendations on water and biotic quality, air quality, potential right-of-way contamination, and obtaining permits that the Applicants should consider prior to commencement of any salvage activities on this project. Accordingly, we recommend a consultation condition requiring that the Applicants contact IDEM, prior to commencement of any salvage activities on this project.

Applicants state that the right-of-way is suitable for trail use, and they are engaged in negotiations with a potential trail user. Applicants further explain that they intend to leave the bridges in place because of its suitability as a potential recreational trail. The Pulaski County Board of Commissioners (Commissioners) has expressed concern that the bridges and culverts that the Applicants intend to leave in place could potentially result in a hazard to community health and safety if the right-of-way is not converted to trail use. The Commissioners advised the Board in its letter of August 18, 2003, that they have contacted several local recreational and trail organizations and have not been able to identify an organization interested in trail use for the right-of-way.

The 1995 Trails Act and the Board's Environmental Review

The Trails Act, 16 U.S.C. 1247(d), gives interested parties the opportunity to negotiate voluntary agreements to use, for recreational trails, railroad rights-of-way that otherwise would be abandoned. The Act is intended to preserve railroad rights-of-way for future railroad use.

Under the Trails Act and the Board's implementing procedures (49 CFR 1152.29), a state or local government or private organization can request a trail condition¹ (known as a CITU) to begin the trail use process on a line approved for abandonment if the rail sponsor agrees to railbanking and provides a statement of willingness to assume responsibility for managing the right-of-way, for any legal liability arising out of its use, and for the payment of taxes. If the railroad agrees to negotiate, and no offer of financial assistance to continue rail freight service on the line is received, the Board will impose a CITU, which gives the rail sponsor time to negotiate an agreement with the railroad for interim trail use/railbanking. The Board has no involvement in the negotiations and does not analyze, approve, or set the terms of trail use agreements. The Board is not authorized to regulate activities over the actual trail. In short, the Board's jurisdiction under the Trails Acts is ministerial.

The Board does not conduct an environmental review of a potential conversion to interim rail use/railbanking because it does not exercise sufficient Federal control to render Rails-to-Trails conversions "major Federal actions" under NEPA.

¹Applicable in abandonments processed under 49 U.S.C. 10903.

Historic

The Indiana State Historic Preservation Officer (SHPO) has identified the following properties within the probable area of potential effects that may meet the criteria of eligibility for inclusion in the National Register of Historic Places:

- The open deck plate girder and double through truss bridge at milepost 186.50 over the Tippecanoe River.
- The Erie Railroad combination depot in Monterey at the Erie Street/Center Street intersection.

The SHPO advises that no archaeological resources listed in or eligible for inclusion in the National Register has been identified within the probable area of potential effects.

The SHPO also explains that Pulaski and Starke Counties have not been surveyed and requests additional information to facilitate the identification and analysis of potential historic properties in the project area. Under these circumstances, SEA recommends that the Applicants maintain the rail line and rail related structures unaltered until completion of the Section 106 process.

CONDITIONS

The U.S. Environmental Protection Agency (EPA), Region 5, has expressed concerns about the removal and salvage methods to be used by the Applicants during the proposed abandonment, the final disposition of cross-ties preserved with creosote, procedures for storing and fueling of construction equipment, procedures for the prevention and/or control of spills from construction equipment, and soil erosion and stormwater runoff mitigation practices to be utilized during abandonment activities. Accordingly, we recommend a consultation condition requiring that the Applicants contact EPA, Region 5, prior to commencement of any salvage activities on this project.

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CONCLUSIONS

Based on the information provided from all sources to date, we conclude that, as currently proposed, abandon of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandon would include denial (and, therefore, no change in operations) or continued operation by another operator. In this case, the existing quality of the human environment and energy consumption should not be affected.

PUBLIC USE

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

TRAILS USE

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of the petition for exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

PUBLIC ASSISTANCE

The Board's Office of Public Services responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact the Office of Public Services directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

ENVIRONMENTAL COMMENTS

If you wish to file comments regarding this environmental assessment, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Phillis Johnson-Ball who prepared this environmental assessment. **Please refer to Docket No. AB-856 (Sub-No. 1X), J.K. Line, Inc.-Abandonment Exemption-In Starke and Pulaski Counties, IN and AB 847 (Sub-No. 1X), Toledo, Peoria & Western Railway-Discontinuance Exemption-In Starke and Pulaski Counties in all correspondence addressed to the Commission.** If you have questions regarding this environmental assessment, you should contact Phillis Johnson-Ball at (202) 565-1530.

Date made available to the public: September 29, 2003.

Comment due date: October 29, 2003.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams
Secretary

Attachment

DASH No. AB-847 (Sub-No. 1N)
 TOLLING/FLORIAN WESTERN
 RAILWAY CORPORATION-
 DISCONTINUANCE OF OPERATION-
 BETWEEN NORTH JUDSON AND
 MONTEREY IN STARK AND
 LANSI COUNTIES IN
 DASH No. AB-856 (Sub-No. 1N)
 J.R. LINE, INC.-ABANDONMENT
 OF NORTH JUDSON AND MONTEREY IN STARK
 AND LANSI COUNTIES IN

